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UNITED STATES PATENT AND TRADEMARK OFFICE

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10/644,683	08/19/2003	Robert A. Dunstan	110349-133957	6454

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EXAMINER
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ART UNIT	PAPER NUMBER
2836	

MAIL DATE	DELIVERY MODE
08/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,6,9-17,19,20,23-34 and 36-38* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,6,9-17,19,20,23-34 and 36-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7/17/2007 have been considered but are moot in view of the new grounds of rejection.

Claim Objections

Claims 9 and 23 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. As written claims 9 and 23 appear to recite limitations already present in the independent claim.

Claim Rejections - 35 USC § 112

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 26 depends from cancelled claim 21 for purposes of examination on the merits claim 26 will be treated to depend from claim 25.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 9-15, 23-32 rejected under 35 U.S.C. 103(a) as being unpatentable

over Thomas (U.S. Pat. No. 6,601,181) in view of Schelling (U.S. Pat. No. 6,954,864)

further in view of Yance (U.S. Pub. No. 2002/0143410)

With respect to claims 1, 9, 15,and 30-32 Thomas teaches in an apparatus

(computer), a method of operation comprising: powering the apparatus from a backup

power source (backup battery unit item 214 also see switch step 524), in response to

the apparatus being in an AC absence condition (blackout/brownout col. 6 lines 30-35);

initiating by an Operating System (item 306 see specifically Advanced Power

Management or Advanced Configuration and Power systems described in col. 6 lines

10-23) of the apparatus in response to the apparatus being in the AC absence

condition, a suspend to memory process (suspend to RAM state col. 6 lines 45-50) to

place the apparatus in a suspended to memory state; wherein an in an operational state

of the apparatus is saved to volatile memory (RAM see col. 6 lines 45) requiring a

source of electrical power to sustain the suspended to memory state and wherein no

further activity occurs while the apparatus is in the suspended to memory state including

suspension of all data transmissions; and, a BIOS (item 302). Thomas dose not teach

the use of timer as part of performing steps 516-548 seen in figure 5, nor does Thomas

teach the specific circuitry involved in the detection of the presence and absence of AC

power determined in step 516. Thomas does teach the backup source is shut down

after a period of time. Yance teaches a timer and system of controlling power to a

computer during times of AC power absence and re-presence. Yance teaches the use

of an AC detection line where the initiation of the shutdown sequence may be cancelled

if the power becomes re-present shortly after the power's absence (paragraph 0031). It

would have been obvious to one of ordinary skill in the art at the time of the invention to

modify Thomas to include a timer and cancellation as part of a resume process in the

event AC power becomes re-present in order to prevent disruption of normal operations

when noise is present in the AC power line. Neither Thomas nor Yance not teach the

details of the BIOS or that the BIOS sets the timer. The BIOS typically contains a set of

routines stored on a chip to provide an interface between the OS and the connected

hardware and peripheral. Schelling teaches a system to transition computer power

operational states where Schelling points out (paragraph 0046) a timer may be initiated

by BIOS in order to actuate a stored time within BIOS. It would have been obvious to

one of ordinary skill in the art at the time of the invention to use clock or timer set by the

BIOS as means of carrying out the timer in order to provide a means to set or configure

the timing step.

With respect to claim 10 and 24 Thomas as modified above teaches the use of

the timer expiring after passing of the period of time (see Yance 50msec); and wherein

Schelling and Yance teach companion logic (timer and timer instructions) of the timer

shutting off of the backup power source, placing the apparatus in an un-powered state

(See for example step 540 of Thomas or see save to disk mode of Thomas).

With respect to claim 11 Thomas teaches the timer shuts off the backup power

source if AC remains absent (shutdown step 548).

With respect to claims 12-13 Thomas teaches monitoring by the supply for

absence of AC (step 516) to the power supply; and generating a signal indicating AC

absence on detection of absence of AC to the power supply.

With respect to claims 14, 28 and 26 Thomas as modified above teaches the

time may be approximately 50msec however It would have been obvious to one of

ordinary skill in the art at the time of the invention to modify this time to be set according

to supply and user's needs in order to minimize disturbances

With respect to claim 23 Thomas as modified above teaches initiating waking of

the apparatus, after passing of the period of time (time to save all data to volatile

memory), including as part of waking of the apparatus, a BIOS causing the backup

power source to be shut off, transitioning (transition from save to disk to shutdown) the

apparatus to an un-powered state instead (shutdown).

With respect to claim 25 Thomas teaches monitoring by the supply for absence

of AC (step 516) to the power supply; and generating a signal indicating AC absence on

detection of absence of AC to the power supply.

With respect to claims 26-28 Thomas teaches the timer is a part of the system

however not point out the structural placement of the timer. It would have been obvious

to one of ordinary skill in the art at the time of the invention to place time within the

power supply in order to quickly control the output of power when power state changed

controls are sent.

With respect to claim 29 Thomas teaches the system further comprises a

networking interface (item 116)

With respect to claim 31 Thomas and Yance teaches a monitoring for presence

or absence of AC to the power supply, and to generate a signal indicating the presence

or absence of AC accordingly (see step 556).

Claims 2-3, 5-6, 16-17, 19 and 33-38 rejected under 35 U.S.C. 103(a) as being

unpatentable over Thomas (U.S. Pat. No. 6,601,181) in view of Schelling (U.S. Pub. No.

2003/0188207) further in view of Yance (U.S. Pub. No. 2002/0143410) as applied to

claims 1 and 15 above, and further in view of Westerinen et al. (U.S. Pat. No.

7,131,011)

With respect to claims 2-3, 16-17 and 33-34 Thomas as modified above teaches

the timer however does not point out the timer may be real time clock. Westerinen

teaches the use of BIOS to include the use of real time clock (col. 4 lines 1-20). It would

have been obvious to one of ordinary skill in the art at the time of the invention to use

BIOS capable of timing the period based on the time and date in order to set time delay

in a clear and precise time of the day or night.

With respect to claims 5 and 19 Thomas as modified above teaches initiating

waking of the apparatus, after passing of the period of time (time to save all data to

volatile memory), including as part of waking of the apparatus, a BIOS causing the

backup power source to be shut off, transitioning (transition from save to disk to

shutdown) the apparatus to an un-powered state instead (shutdown).

With respect to claim 6, 20 and 36 Thomas teaches backup power supply is shut

off and made to charge when it is necessary while Thomas does not described this

operation in detail It would have been obvious to one of ordinary skill in the art at the

time of the invention to use the BIOS instruction to output a signal to the backup supply

hardware to affect such control in order to maintain battery power when not needed.

With respect to claim 37 Thomas teaches the timer shuts off the backup power

source if AC remains absent (shutdown step 548).

With respect to claim 38 Thomas as modified above teaches the time of the may

be approximately 50msec however It would have been obvious to one of ordinary skill in

the art at the time of the invention to modify this time to be set according to supply and

user's needs in order to minimize disturbances

Conclusion

Applicant's amendment necessitated the new grounds of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

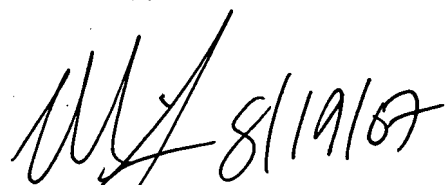mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Rutland-Wallis whose telephone number is 571-272-5921. The examiner can normally be reached on Monday-Thursday 7:30AM-6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on 571-272-2084. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRW

MICHAEL SHERRY
SUPERVISORY PATENT EXAMINER